

***Remarks***

Reconsideration of this Application is respectfully requested.

Claims 3-6, 9, 10, 15-18, 21-23, 26-29, and 32-46 are pending in the application, with claims 3, 4, 15, 16, 23, 26, 27, and 42 being the independent claims.

Based on the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

***Rejections Under 35 U.S.C. § 102***

The Office Action rejected claims 3-6, 9, 10, 15-18, 21-23, 26-29, and 32-46 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0229638 to Carpenter *et al.* (hereinafter "the Carpenter Publication"). (See Office Action at p. 4.) Applicants respectfully traverses these rejections.

At page two of the Office Action, the Examiner notes that:

Applicant argues that Carpenter et al. does not teach or suggest (1) calculating a ratio of resumes associated with the matched employment market category and (2) incrementing a first counter associated with the matched employment market category when the employment resource is a resume and incrementing a second counter associated with the matched employment market category when the employment resource is a job listing.

Regarding the feature of calculating a ratio, the Examiner, at page three of the Office Action, contends that "Carpenter states that a search is performed on the resumes and a set of resumes with a relevant percentage rate are returned as good matches. Therefore a proportion of the entire pool of resumes is returned as results of the search. See paragraph 0054."

Regarding the feature of incrementing a counter, the Examiner, at page three of the Office Action, contends that:

In the broadest reasonable interpretation, a "counter" is anything used to keep a count of something. In the system of Carpenter, the amount of data stored is tracked and when the amount is higher than a limit, the spider's activity is changed. The system also maintains count of the age of documents. Therefore, Carpenter teaches counters associated with the data of the system. See paragraphs 0046-8.

Carpenter should be removed as a prior art reference under 35 U.S.C. § 102(e). The present patent application claims the benefit of U.S. Provisional Patent Application No. 60/199,376 (hereinafter "the Foulger Provisional"), filed April 25, 2000, which is cited in the Supplemental Information Disclosure Statement filed herewith. (*See* Specification at ¶ 0001.) The Carpenter Publication was filed February 5, 2001, but claims the benefit of U.S. Provisional Patent Application No. 60/180,368 (hereinafter "the Carpenter Provisional"), filed February 4, 2000, which is cited in the Supplemental Information Disclosure Statement filed herewith. (*See* the Carpenter Publication at § 60.)

However, without stipulating that the features of calculating a ratio and incrementing a counter are the only features that differentiate the claimed embodiments of the present patent application from the Carpenter Publication, Applicants note that these features are disclosed by the Foulger Provisional (*see* Foulger Provisional at p. 8, ll. 14-19; p. 11, l. 21 - p. 12, l. 13; at claims 3, 4, 13, 14, 24, and 25; and at figures 3 and 6), but are not disclosed by the Carter Provisional. Thus, at least with regards to the features of calculating a ratio and incrementing a counter, the present patent application enjoys the benefit of the Foulger Provisional, but the Carter Publication does not enjoy the benefit of the Carter Provisional. Therefore, with regard to the claimed embodiments of the present patent application, the

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effective filing date of the present patent application predates the Carter Publication such that the Carter Publication should not be applied as a prior art reference against the present patent application. (*See* M.P.E.P. § 706.02(V)(D).) Accordingly, Applicants respectfully request that the Examiner reconsider and remove her rejections of claims 3-6, 9, 10, 15-18, 21-23, 26-29, and 32-46 under 35 U.S.C. § 102(e) and pass these claims to allowance.

***Conclusion***

All of the stated grounds of rejection have been properly traversed. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,

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